

DEC - 8 2008

U.S. DISTRICT COURT  
W. DIST. OF N.C.

Edward Wahler (purported defendant)  
In Care of Postal Department 681  
Buncombe: the county  
Fletcher: North Carolina:  
on the land [28732]  
In Propria Persona (not Pro Se)  
Without counsel

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION

UNITED STATES OF AMERICA,  
Plaintiff,  
vs.  
KATHY RAY WAHLER,  
EDWARD WILLIAM WAHLER,  
LEWIS VINCENT HUGHES,  
RICHARD WALSER TURNER,  
Defendant.

Case No.: 1:08-CR-00055-RLV-DCK-2

**PETITION FOR POST SETTLEMENT  
AND CLOSURE OF THE ACCOUNT  
UNDER PUBLIC POLICY**

**APPEARANCE**

Now comes Edward Wahler (purported defendant) and respectfully notices this court and judge  
by entering an amended dilatory plea to execute settlement and closure of the account under  
Public Policy.

**dilatory plea:** A plea that does not challenge the merits of a case but that seeks to delay or defeat the action on procedural grounds. "Dilatory pleas are those which do not answer the general right of the plaintiff, either by denial or in confession and avoidance, but assert matter tending to defeat the particular action by resisting the plaintiff's present right of recovery. They may be divided into two main classes: (1) Pleas to the jurisdiction and venue. (2) Pleas in abatement. A minor class, sometimes recognized, is pleas in suspension of the action." Benjamin J. Shipman, Handbook of Common-Law Pleading section 220, at 382 (Henry Winthrop Ballantine ed., 3d ed. 1923).

**NEGATIVE AVERMENT ADMISSIONS BY PLAINTIFF**

I certify that it does not appear that plaintiff has identified purported defendant as the party being charged.

1 I certify that it does not appear that plaintiff has not admitted that named defendant EDWARD  
2 W. WAHLER is not the same party known the purported defendant.

3 I certify that it does not appear that plaintiff does not admit that a formal presentment in accord  
4 with UCC 3-501 in order to charge was not made by the plaintiff against the named defendant,  
5 EDWARD W. WAHLER.

6 I certify that it does not appear that the alleged presumption that the named defendant and the  
7 purported defendant have not been admitted by the plaintiff as not being different parties in  
8 commerce.

9 I certify that it does not appear that Title 27 CFR 72.11 does not state that the crimes alleged in  
10 this case are commercial.

11 It does not appear that The Parties do not admit that the crimes alleged are commercial.

12 It does not appear that The Parties do not admit that the crimes alleged cannot be resolved  
13 through commercial, admiralty or special maritime remedies such as 28 USC 2041 and FRCP  
14 Supplemental Rule C.

15 It does not appear that The Parties do not admit that the crimes alleged are settled by this  
16 pleading.

17 It does not appear that The Parties do not admit that the crimes alleged are settled by this  
18 pleading and cannot be resurrected by any faux faux or inadvertent error by either of The Parties  
19 in some procedural manner or caused therein by actions of judge in any form, or alleged assigned  
20 counsel by judge upon defendant, if any.

21 It does not appear that The Parties do not admit that the AUSA cannot testify in this case as he  
22 does not have personal knowledge of any facts alleged.

1 I certify that it does not appear that the plaintiff has not admitted that all statements made via  
2 negative averment have not been admitted as correct by plaintiff, petitioner and The Parties.

3 **CONDITIONAL ACCEPTANCE**

4 Upon performance therein petitioner notices The Parties to return the credit of all capital and  
5 interest for return to the source, via whatever Forms, (1099OID, etc.), to the source, petitioner.

6 **SETTLEMENT AND CLOSURE**

7 Petitioner petitions and moves this court for full settlement and closure of the account.

8 **ACCEPTANCE OF CHARGES**

9 Petitioner accepts the charges for value and consideration in return for post-settlement and  
10 closure of account # 263-47-3283 CUSIP and AUTOTRIS.

11 Petitioner accepts the charges for value and consideration. In return please use petitioner's  
12 exemption and principal for post-settlement and closure of case number 1:08-CR-00055-RLV-  
13 DCK-2 and CUSIP and AUTOTRIS account # 263-47-3283 as this account is prepaid and  
14 exempt from levy.

15 **ADMITTED FACTS**

16 Petitioner stipulates to the alleged facts but does not admit guilt.

17 I certify that it is deemed that all statements stated above are true and correct and apply to  
18 evidence in that case of UNITED STATES OF AMERICA vs. EDWARD W. WAHLER, case  
19 number 1:08-CR-00055-RLV-DCK-2.

20 I certify that it is deemed and construed and admitted that all statements listed herein are  
21 admitted by tacit procuration and shall be admitted as estoppel by record after 30 days without  
22 response or objection in that case known as UNITED STATES OF AMERICA vs. EDWARD  
23 W. WAHLER, case number 1:08-CR-00055-RLV-DCK-2.

1 Respectfully submitted this 5<sup>th</sup> day of December 2008.

2 *Virginia Wahler signing as P.O.A for.*

3 *Edward Wahler*

4 Edward Wahler (purported defendant), Authorized Representative

5 Good as aval

1 **CERTIFICATE OF SERVICE**

2  
3 COPY of the forgoing hand delivered,  
4 This 8 day of December, 2008, to:

5  
6 Assistant U.S. Attorney

7 Will Westmoreland Rose

8 Asheville, North Carolina \_\_\_\_\_

9  
10   
11 \_\_\_\_\_

12  
13 Service performed by:

14 Lindsey Howell  
15 202 Lindseybrook Trail  
16 Moultrie, South Carolina  
17 \_\_\_\_\_

1  
2  
3  
4  
5 **IN THE UNITED STATES DISTRICT COURT**  
6 **FOR THE WESTERN DISTRICT OF NORTH CAROLINA**  
7 **ASHEVILLE DIVISION**

8 UNITED STATES OF AMERICA,  
Plaintiff,  
vs.  
KATHY RAY WAHLER,  
EDWARD WILLIAM WAHLER,  
LEWIS VINCENT HUGHES,  
RICHARD WALSER TURNER,  
Defendant.

) Case No.: 1:08-CR-00055-RLV-DCK-2

) **ORDER FOR POST SETTLEMENT AND**  
) **CLOSURE OF THE ACCOUNT UNDER**  
) **PUBLIC POLICY**  
)  
)  
)

9  
10 The Court having read and considered petitioner's PETITION FOR POST SETTLEMENT AND  
11 CLOSURE OF THE ACCOUNT UNDER PUBLIC POLICY and being fully advised in the  
12 premises and good cause appearing therefore;

13 IT IS HEREBY ORDERED that the accounting in accordance with public policy shall reflect  
14 settlement and closure of the account; and

15 IT IS HEREBY ORDERED that defendant is hereby ordered released from any further liability.

16 DONE IN OPEN COURT this \_\_\_\_\_, 2008.

17  
18  
19  
20  
21 \_\_\_\_\_  
22 Judge  
23  
24

RELEASE OF PERSONAL PROPERTY FROM ESCROW

Whereas EDWARD W. WATLER, of PO Box 681  
(Name) (Place of Residence) Fletcher NC, by a bond  
for the performance of U.S. Government Contract Number 243-47-3283,  
became a surety for the complete and successful performance of said contract, and Whereas  
said surety has placed certain personal property in escrow

in Account Number 1:08-CR-00055-RLV-DCK-2 on deposit  
at United States District Court of Western North Carolina Asheville  
(Name of Financial Institution) Division

located at 100 Otis Street Asheville NC, and  
(Address of Financial Institution)

Whereas I, Edward W. Watler, being a duly authorized  
representative of the United States government as a warranted contracting officer, have  
determined that retention in escrow of the following property is no longer required to ensure  
further performance of the said Government contract or satisfaction of claims arising  
therefrom:

and

Whereas the surety remains liable to the United States Government for the continued  
performance of the said Government contract and satisfaction of claims pertaining thereto.

Now, therefore, this agreement witnesseth that the Government hereby releases from escrow  
the property listed above, and directs the custodian of the aforementioned escrow account to  
deliver the listed property to the surety. If the listed property comprises the whole of the  
property placed in escrow in the aforementioned escrow account, the Government further  
directs the custodian to close the account and to return all property therein to the surety, along  
with any interest accruing which remains after the deduction of any fees lawfully owed to

United States District Court of Western North Carolina Asheville  
(Name of Financial Institution) Division

[Date] 12/05/08

[Signature]

Seal

Virginia Waller signing  
as P.O.A. for  
Edward Watler

**RELEASE OF LIEN ON REAL PROPERTY**

Whereas \_\_\_\_\_, of \_\_\_\_\_, by a bond  
(Name) (Place of Residence)  
for the performance of U.S. Government Contract Number \_\_\_\_\_,  
became a surety for the complete and successful performance of said contract, which bond  
includes a lien upon certain real property further described hereafter, and

Whereas said surety established the said lien upon the following property

and recorded this pledge on \_\_\_\_\_  
(Name of Land Records)  
in the \_\_\_\_\_ of \_\_\_\_\_,  
(Locality) (State)  
and

Whereas, I, \_\_\_\_\_, being a duly  
authorized representative of the United States Government as a warranted contracting  
officer, have determined that the lien is no longer required to ensure further performance of  
the said Government contract or satisfaction of claims arising therefrom,  
and

Whereas the surety remains liable to the United States Government for continued  
performance of the said Government contract and satisfaction of claims pertaining thereto.

Now, therefore, this agreement witnesseth that the Government hereby releases the  
aforementioned lien.

[Date]

[Signature]  
Seal